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September 8, 2008

**VIA ECF AND OVERNIGHT MAIL**

Hon. Lewis A. Kaplan  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: June Bennett et al vs. Kingsbridge Heights Care Center  
07-CV-09456 (LAK)

Dear Judge Kaplan:

The undersigned represents the defendant in the above referenced action. I write this letter pursuant to Your Honor's Motion of Rule and Procedures to respectfully cross-move for an extension of time to complete discovery in the above action.

This matter has been on Your Honor's docket for a number of months, and has been subject to prior extensions of the discovery date, and plaintiff's counsel and I were working together to complete discovery. That schedule, however, was disrupted by a series of hearings that the undersigned is conducting in front of District Judge Denise L. Cote in a matter entitled Mattina v. Kingsbridge Heights Rehabilitation and Care Center, 08-CV-6550. These hearings relate to the misconduct of strikers in a strike that was itself terminated by an injunction issued by Judge Cote. The hearings were scheduled to commence on September 3, 2008 and, if necessary, were to continue on September 8<sup>th</sup>, which of course is today. Prior to the commencement of the September 3<sup>rd</sup> hearings, counsel for the plaintiff herein and I agreed that the plaintiffs' deposition would be conducted on September 8<sup>th</sup> and September 9<sup>th</sup>, and that the defendant's depositions would be on conducted on September 12, 2008. Unfortunately for that schedule, however, the hearings in front of Judge Cote not only failed to be completed on September 3<sup>rd</sup>, but have been scheduled to continue on both today September 8<sup>th</sup> at 2:00 PM, and tomorrow, September 9<sup>th</sup>. Accordingly, the plaintiffs' depositions cannot even be commenced on the dates that Mr. Romero and I agreed upon.

In terms of further availability to complete discovery before Your Honor's September 15, 2008 discovery cut-off, that would appear to be impossible. Plaintiff's counsel advised me that plaintiff June Bennett will be out of the country between September 13 and September 20, 2008, and thus it seems a virtual certainty that plaintiffs' depositions cannot be completed before the court's deadline.

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I am consequently cross-moving the court to extend the discovery until October 31, 2008. The discovery items which remain outstanding are the depositions of the three plaintiffs; deposition of the defendant which may require more than one witness; and several items of paper discovery. Further, both my client and I are Orthodox Jews. The Jewish holidays Rosh HaShana, Yom Kippur, Succoth and Shemini Atzeret/Simchat Torah present 7 work days between September 30, 2008 and October 22, 2008 that are forbidden to do work, and present an additional 6 days that are either preceding days or intermediate days of Succoth on which work is limited but not prohibited.

Concerning the motion just submitted by plaintiff's counsel regarding the employment records of Janet LaMarche, defendant takes no exception to the facts as presented by opposing counsel. However, in light of the extreme time pressure with which the undersigned is faced (hearings are scheduled for 2:00 P.M. today in front of Judge Cote), it would be a disservice to my client if I were forced to answer the legal arguments set forth by the plaintiff in any detail at this moment. I request, therefore, that if a pre-motion conference is held, or if a briefing schedule be set, that I be allowed to complete the hearings in front of Judge Cote before substantively addressing said motion.

The court's time and attention are greatly appreciated.

Respectfully submitted,

  
PAUL M. SOD

PMS.mcj

cc: Peter A. Romero via ECF